

FIRST REGULAR SESSION

SENATE BILL NO. 205

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOFFER.

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TERRY L. SPIELER, Secretary.

0504S.02I

AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to the transportation of radioactive waste, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 260.750, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 260.392 and 260.750, to read as
3 follows:

260.392. 1. As used in this section, the following terms mean:

2 (1) "Cask", all the components and systems associated with the
3 container in which spent fuel, high-level radioactive waste, highway
4 route controlled quantity, or transuranic radioactive waste are stored;

5 (2) "Entity", the generator, owner or company responsible for
6 shipment of the spent fuel, high-level radioactive waste, highway route
7 controlled quantity shipments, transuranic radioactive waste, or low-
8 level radioactive waste;

9 (3) "High-level radioactive waste", the highly radioactive material
10 resulting from the reprocessing of spent nuclear fuel including liquid
11 waste produced directly in reprocessing and any solid material derived
12 from such liquid waste that contains fission products in sufficient
13 concentrations, and other highly radioactive material that the Nuclear
14 Regulatory Commission has determined to be high-level radioactive
15 waste requiring permanent isolation;

16 (4) "Highway route controlled quantity", as defined in 49 CFR
17 Part 173.403, as amended, a quantity of radioactive material within a
18 single package;

19 (5) "Low-level radioactive waste", any radioactive waste not
20 classified as high-level radioactive waste, transuranic radioactive

21 waste, or spent nuclear fuel, and classified as low-level radioactive
22 waste by the U.S. Nuclear Regulatory Commission, consistent with
23 existing law. Shipment of all sealed sources meeting the definition of
24 low-level radioactive waste, shipments of low-level radioactive waste
25 that are within a radius of no more than fifty miles from the point of
26 origin, and all naturally occurring radioactive material given written
27 approval for landfill disposal by the Missouri department of natural
28 resources under 10 CSR 80-3.010 are exempt from the provisions of this
29 section. Any low-level radioactive waste that has a radioactive half-life
30 equal to or less than one hundred twenty days is exempt from the
31 provisions of this section;

32 (6) "Spent nuclear fuel", fuel that has been withdrawn from a
33 nuclear reactor following irradiation, the constituent elements of which
34 have not been separated by reprocessing;

35 (7) "State-funded institutions of higher education", any campus
36 of any university within the state of Missouri that receives state
37 funding and has a nuclear research reactor;

38 (8) "Transuranic radioactive waste", defined in 40 CFR Part
39 191.02, as amended, as waste containing more than one hundred
40 nanocuries of alpha-emitting transuranic isotopes with half-lives
41 greater than twenty years, per gram of waste. For the purposes of this
42 section, transuranic waste shall not include:

43 (a) High-level radioactive wastes;

44 (b) Any waste determined by the Environmental Protection
45 Agency with the concurrence of the Environmental Protection Agency
46 administrator, that does not need the degree of isolation required by
47 this section; or

48 (c) Any waste that the Nuclear Regulatory Commission has
49 approved for disposal on a case-by-case basis in accordance with 10
50 CFR Part 61, as amended.

51 2. Any entity that ships high-level radioactive waste, transuranic
52 radioactive waste, highway route controlled quantity shipments, spent
53 nuclear fuel, or low-level radioactive waste through or within the state
54 shall be subject to the fees established in this subsection, provided that
55 no state-funded institution of higher education that ships nuclear waste
56 shall pay any such fee. These higher education institutions shall
57 reimburse the Missouri state highway patrol directly for all costs

58 related to transport escorts. The fees for all other shipments shall be:

59 (1) One thousand eight hundred dollars for each cask
60 transported through or within the state by truck of high-level
61 radioactive waste, transuranic radioactive waste, spent nuclear fuel or
62 highway route controlled quantity shipments. All casks of high-level
63 radioactive waste, transuranic radioactive waste, spent nuclear fuel or
64 highway route controlled quantity shipments transported by truck are
65 subject to a surcharge of twenty-five dollars per mile for every mile
66 over two hundred miles traveled within the state;

67 (2) One thousand three hundred dollars for the first cask and one
68 hundred twenty-five dollars for each additional cask for each rail
69 transport through or within the state of high-level radioactive waste,
70 transuranic radioactive waste or spent nuclear fuel;

71 (3) One hundred twenty-five dollars for each truck or train
72 transporting low-level radioactive waste through or within the
73 state. The department of natural resources may accept an annual
74 shipment fee as negotiated with a shipper or accept payment per
75 transport or shipment.

76 3. All revenue generated from the fees established in subsection
77 2 of this section shall be deposited into the environmental radiation
78 monitoring fund established in section 260.750 and shall be used by the
79 department of natural resources to achieve the following objectives and
80 for purposes related to the transport or shipment of high-level
81 radioactive waste, transuranic radioactive waste, highway route
82 controlled quantity shipments, spent nuclear fuel, or low-level
83 radioactive waste, including, but not limited to:

84 (1) Inspections, escorts, and security for waste shipment and
85 planning;

86 (2) Coordination of emergency response capability;

87 (3) Education and training of state, county, and local emergency
88 responders;

89 (4) Purchase and maintenance of necessary equipment and
90 supplies for state, county, and local emergency responders through
91 grants or other funding mechanisms;

92 (5) Emergency responses to any transportation incident
93 involving the high-level radioactive waste, transuranic radioactive
94 waste, highway route controlled quantity shipments, spent nuclear fuel,

95 or low-level radioactive waste;

96 (6) Oversight of any environmental remediation necessary
97 resulting from an incident involving a transport of high-level
98 radioactive waste, transuranic radioactive waste, highway route
99 controlled quantity shipments, spent nuclear fuel, or low-level
100 radioactive waste. Reimbursement for oversight of any such incident
101 shall not reduce or eliminate the liability of any party responsible for
102 the incident; such party may be liable for full reimbursement to the
103 state or payment of any other costs associated with the cleanup of
104 contamination related to a transportation incident;

105 (7) Administrative costs attributable to the state agencies which
106 are incurred through their involvement as it relates to the transport or
107 shipping of high-level radioactive waste, transuranic radioactive waste,
108 highway route controlled quantity shipments, spent nuclear fuel, or
109 low-level radioactive waste through or within the state.

110 4. Nothing in this section shall preclude any other state agency
111 from receiving reimbursement from the department of natural
112 resources and the environmental radiation monitoring fund for services
113 rendered that achieve the objectives and comply with the provisions of
114 this section.

115 5. The department of natural resources in coordination with the
116 department of health and senior services, and the department of public
117 safety, may promulgate rules necessary to carry out the provisions of
118 this section.

119 6. Any rule or portion of a rule, as that term is defined in section
120 536.010, RSMo, that is created under the authority delegated in this
121 section shall become effective only if it complies with and is subject to
122 all of the provisions of chapter 536, RSMo, and, if applicable, section
123 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
124 and if any of the powers vested with the general assembly pursuant to
125 chapter 536, RSMo, to review, to delay the effective date, or to
126 disapprove and annul a rule are subsequently held unconstitutional,
127 then the grant of rulemaking authority and any rule proposed or
128 adopted after August 28, 2007, shall be invalid and void.

129 7. All funds deposited in the environmental radiation monitoring
130 fund through fees established in subsection 2 of this section shall be
131 utilized, subject to appropriation by the general assembly, for the

132 administration and enforcement of this section by the department of
133 natural resources. All interest earned by the monies in the fund shall
134 accrue to the fund.

135 8. All fees shall be received by the department of natural
136 resources prior to transport.

137 9. Notice of any transport of high-level radioactive waste,
138 transuranic radioactive waste, highway route controlled quantity
139 shipments, or spent nuclear fuel through or within the state shall be
140 provided by the shipper to the governor's designee for advanced
141 notification, as described in 10 CFR Parts 71 and 73, as amended, prior
142 to such transport entering the state. Notice of any transport of low-
143 level radioactive waste through or within the state shall be provided
144 by the shipper to the Missouri department of natural resources before
145 such transport enters the state.

146 10. Any shipper who fails to pay a fee assessed under this
147 section, or fails to provide notice of a transport, shall be liable in a
148 civil action for an amount not to exceed ten times the amount assessed
149 and not paid. The action shall be brought by the attorney general at
150 the request of the department of natural resources. If the action
151 involves a facility domiciled in the state, the action shall be brought in
152 the circuit court of the county in which the facility is located. If the
153 action does not involve a facility domiciled in the state, the action shall
154 be brought in the circuit court of Cole County.

155 11. Beginning on December 31, 2008, and every two years
156 thereafter, the department of natural resources shall prepare and
157 submit a report on activities of the environmental radiation monitoring
158 fund to the general assembly. This report shall include information on
159 fee income received and expenditures made by the state to enforce and
160 administer the provisions of this section.

161 12. The provisions of this section shall not apply to high-level
162 radioactive waste, transuranic radioactive waste, highway route
163 controlled quantity shipments, spent nuclear fuel, or low-level
164 radioactive waste shipped by or for the federal government for military
165 or national defense purposes.

166 13. Under section 23.253, RSMo, of the Missouri Sunset Act:

167 (1) The provisions of the new program authorized under this
168 section shall automatically sunset six years after the effective date of

169 **this section unless reauthorized by an act of the general assembly; and**

170 **(2) If such program is reauthorized, the program authorized**
171 **under this section shall automatically sunset twelve years after the**
172 **effective date of the reauthorization of this section; and**

173 **(3) This section shall terminate on September first of the**
174 **calendar year immediately following the calendar year in which the**
175 **program authorized under this section is sunset.**

260.750. 1. The department of natural resources shall develop an
2 environmental radiation monitoring program for the purpose of monitoring
3 radioactivity in air, water, soil, plant and animal life as necessary to insure the
4 protection of the public health and safety of the environment from radiation
5 hazards.

6 2. There is hereby created within the state treasury an "Environmental
7 Radiation Monitoring Fund". In addition to general revenue, the department of
8 natural resources is authorized to accept and shall deposit in said fund all gifts,
9 bequests, donations, or other moneys, equipment, supplies, or services from any
10 state, interstate or federal agency, or from any institution, person, firm, or
11 corporation, public or private **as well as fees collected under subsection 2**
12 **of section 260.392.** This fund shall be used for the environmental radiation
13 monitoring program established in this section **and to administer and enforce**
14 **the provisions of section 260.392.**

Section B. Because immediate action is necessary to enable both the
2 promulgation of rules pertaining to the implementation of this act and to preserve
3 the state's environment, section A of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace and safety, and is
5 hereby declared to be an emergency act within the meaning of the constitution,
6 and section A of this act shall be in full force and effect upon its passage and
7 approval.

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